911-12

File no - 2016/11
1-4

G R. S. 59]

[Important Edict filed]

GENERAL AND REVENUE SECRETARIAT.

1901-2
Courts)

File No. 201

Serial Nos. 1-4.

Papers Filed.

Month November 1912

SUBJECT.

Rules under the Mysore Small Cause Courts Regulation

PREVIOUS REFERENCES.	LATER REFERENCES.
	G. 346-12 (1-3) B.

S. Ananta Rama Iyer
28/12/12

No. C. 245.
3. 4. 12.

G.R.S. 11] 1911-12.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

Cts File No. 201-11.

FILE HEADING.

Rules under the Mysore Small Cause Courts Regulation.

From

No.	Dated	Received
Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

As directed by the Asstt Secy, a draft calling for a set of rules under the Small Cause Courts Regulation, is submitted for approval.

Sec 2/2/12

Sec-1-12 (W.II) 24-1-12
23-1-12

24/1/12

NOTES—First Sheet.

Draft appd. by Second Councillor 23.1.12

Sec 11/4/12

GPB—30,000—12-8-11

G. R. S. 12]

2

General and Revenue Secretariat. | Cts File No. 201 of 1911-12.

Serial No.	
1	To the Registrar, Chief Court. N J 2147 dt. 30.1.12. Requests that the rules framed by the Chief Court under the Small Cause Courts Regulation may be forwarded for the sanction of Govt.
2	From the Registrar, Chief Court. N 3261/242 dt. 20.2.1912. Forwards a set of draft rules on the subject. Subd for orders. Hon. 122. 24-2-12.
	3 (1) The rules framed seem to be all right. Except that it is not clear whether it was the intention to remunerate the jurors as is proposed to be done under rule 2. I think the idea was to associate an honorary Bench with the Stipendiary Judge. If so rule 2 will have to be altered suitably.
	(2) The Chief Court point out that no authority has been conferred on them to attach a penalty to failure to attend in answer to a summons

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

issued to a juror. It is true that no specific penalty has been provided in the Regulation Expressly but we may reasonably Conclude that a penalty has been provided for by implication When an Act Confers a jurisdiction, it impliedly grants also, the power of doing all such acts or Employing such means, as are Essentially necessary to its Execution Thus, an Act which Empowers justices to require persons to take an oath as Special Constables, or gives them jurisdiction to inquire into an offence impliedly Empowers them to apprehend the persons who unlawfully fail to attend before them; otherwise the jurisdiction Could not be effectually Exercised And it is laid down that where a Statute Empowers a justice to bind a person over and the person, in his presence, refuses, the justice has impliedly authority to Commit him to jail till he Complies. An Act which authorises the making of bye-laws impliedly authorises the annexation of a reasonable penalty for

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

then infringement recoverable (in the absence of this provision) by action or distress."

The above Extracts taken from Maxwell on the interpretation of Statutes show that it is permissible to assume that the power given by Sec 8 of the Regulation includes also the power to apprehend a defaulting juror.

pp 500-509

6 Reference may also be made to Sec 151 of the new Code of Civil Procedure which makes reference to the "inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Court".

Submitted

6/3/12

138.

Please see separate note put up by 1st Cr.

GPB—50,000—12-8-10

Draft Rules.

On the day fixed for hearing the case, either party may apply for trial by a Composite Court.

2. If for any reason the hearing of a case is adjourned,

(1) On the day fixed for hearing after the pleas of the defendant have been recorded, either party may apply for hearing by a Composite Court.

2. Such an application may also be made at any stage of the suit before judgment, provided that if any adjt is thereby rendered necessary, the party making the application shall bear all the additional Costs of

thereby incurred.

3. If ~~such an appli~~ a Cause has been adjourned for any cause, either party may, not less than ten days before the date of hearing, leave with the Chief Ministerial Officer of the Court a notice that he wishes the suit to be tried by a Composite Court. Such notice shall be communicated to the opposite party in such manner as the Court thinks fit.

4. Rule 2 of Ch. Ct.

5. No person shall be a juror who is a ~~to~~ near relation of ~~the party who is an~~ either party to the suit, or who has been convicted

of any offence involving moral turpitude in a criminal Court, or who has any interest in the subject matter of the suit or whom the Court considers not to be of a sufficiently respectable position in life.

6. ~~If~~ At the time of hearing ~~her~~ each party may name a person who is not liable to objection under ~~S.~~ 5, from among the persons ~~in~~ present in Court.

Among the persons present in Court, ~~three~~ persons ~~shall be selected~~, two of six persons shall be selected by the Judge, and out of them each party ~~should~~ should nominate one juror

and the Court a third juror; and these together with the Judge shall form the Composite Court.

7. If it is not practicable to get a sufficient number of persons in the manner afore said, the Case may be adjd to a future day for which not less than Six persons shall be summoned from the list of Jurors & assessors prepared under S. 321 of the Code of Cr Pr. &c. (Ch ct r. 3)

8. (Ch ct r. 4 - adding in the ~~end~~ after "Obj." that he is disqualified to act as a juror under the provns contained in Rule 5.

Alternative.

Each party to the ct may not nominate one each from these, provided that they are not disqualified under R 5.

9. Rule 5.

10. Each juror shall be entitled

& receive an demand a
fee of. 2 Rs for each case,
unless the Jmst Considers
a larger sum ~~due~~ payable
in account of the length
of time or Special diffi-
culty involved.

1 The Pltff need not be given the option of asking for a jury before he hears the defence as he cannot know whether the defendant would admit or deny the claim. There seems to be no object in requiring that the defendant should give notice before the day fixed for the hearing. Till the day of hearing, the case should be treated as an ordinary case posted before the Judge.

2 ~~Objections are to~~ The scheme proposed by the ~~Com~~ Ch. Court involves a necessary delay which in ordinary cases is undesir-

11 7

able. My alternative scheme is to meant to provide that jurors may be selected ordinarily from casual visitors to the Court.

9 I would suggest that this subject be taken up at a meeting of Council early.

18/3/12

378
23.3.12

G. R. S. 12]

General and Revenue Secretariat. | cts File No. 201 of 1911

Serial No.

1 Circulate to Council for discussion at meeting

Also 30 Nov

11 Circulate + note for meeting

I don't

12 seen

2/4/12

8/4/12

13 The rules are redrafted as agreed to at the meeting. I would suggest these being sent to the Chief for opinion before final passing with a D.O. letter.

a typed copy of the rules and draft D.O. are also put up

1203
9 5.12

Drawn

7/5/12

14 Yes - This may be done

7/5/12

7/5/12

Yes 8/5/12

Resolution

15

8/5/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Council 3/4

L3

Extract from the Proceedings of the 276th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 12th April 1912

10. Subject.-(Clause of Schedule).

Draft rules under the Mysore Small Cause Courts Regulation 1911.

Opinion of the Council.

The rules, as in the copy appended, may be approved.

Sd/- T. Ananda Row.
Dewan of Mysore.

"Extract"

CSBalasundaramiyer
Offg. Secretary to Government.

G. R. S. 12]

General and Revenue Secretariat.

ct File No. 201 of 191

Serial No.	
3	Do. to the Registrar, Chief Court. N° 3437 & 18.5.12. Forwards the draft rules as proposed to be approved by Govt and calls for the opinion of the Chief Court thereon.
84	From the Registrar, Chief Court N° 4478 & 20.6.12. States that the Judges (341) do not see their way to accept responsibility for the rules as drafted by Govt. Lib Subs for orders. Secs 122 SW(11) 25.6.12.

1) It is not easy to see how the nomination of a juror by a party is opposed to the spirit of the Regn. There is nothing in it to indicate that the Composition of the Jury shd be in effected only by drawing lots.

2) If authority was wanted, refer may be made to the Village Courts Bill now before the Leg Council Clause 37 which requires that in the formation of a Bench for the trial of a Suit before a Village Court, one of the jurors shall be nominated by the

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat. File No. of 191

This System is actually working now in Madras

Serial No.

the Plaintiff and the Other by the Village Munsiff forming the third member of the Bench. The seems to be no objection to retaining the rule as framed by

2 (g) The Chief Court remark that the Suggestion that an application for a jury may be made by either party at any time before judgment does not Commend itself to them. They Evidently fear that such an application may be put in for purposes of Vexation even after the trial Commences or has actually finished. To avoid possible opportunities for such Evil practices, rule 2 may perhaps be amended by substituting the words "before the trial Commences" for the words "before judgment".

20 Subd to Secy

27/6/12

Secy) 1st Commr

28/6

21 A revised set of Rules

NOTE—Contn. sheet.

Serial No.

is appended, which obviates the objections of the Ch. Ct & accepts their suggestions. If they do not agree, they may be asked to send up their own draft meeting as far as they can accept the views of Govt.

Hrw

28/6/12

Drwan

2061
30-6-12

22 Please keep this file in the Mint till called for — Let me have a typed copy of the revised Rules and a spare copy of the Resolution

attended to
J
H+CS
24.7.12

Sd
19/7/12

Keys for record with typed copies

Sd
19/7/12

Sd
19/7/12

Sd
25/7/12

Sd

NOTE—Contn. sheet.

Subject may be filed
Sd 20/11/12

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191

Serial No.	
23	Subd for orders as to whether any further action has to be taken. SR(II) 28/11/12 Ng. May be ~~kept~~ processed for Payment and kept "till called for" as ordered by the late Diwan 28/11/12 28/11/12

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

G.R.S. 26]

Courts File No. 201-11

Serial No. 1.

Diary No. of letter replied to

No. J2147

General and Revenue Secretariat

( )

, *the* 19 .

Date of issue 30.1.12

Signed by Mr. S Hiriyannaiya

To

The Registrar, Chief Court of Mysore.

Sir,

I am directed to invite your attention to Section 8 of the Mysore Small Cause Courts Regulation, VIII of 1911, and to request that the ~~draft of the~~ rules ~~to be framed by the Chief Court thereunder~~ framed by the Ch. Ct. and may be forwarded for the sanction of Govt. at an early date.

I have &c,

SUBJECT.

28/1/12

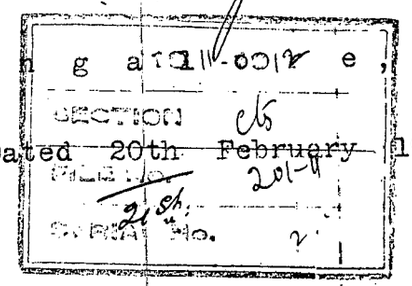
for Secy.

H G Nos 122 SH (II)
23-1-12

23-1-12

No: 3261/242 Enc: one.

DIARY No. J2177



Bangalore,

Dated 20th February 1912.

From,

The Registrar of the
Chief Court of Mysore.

To,

The Secretary to Government,
General and Revenue Departments.

Sir,

Adverting to your letter No. J.2147/Cts. 201-11-1 dated the 30th Jahuary 1912 I am directed to forward for sanction of Government the accompanying Rules framed under section 8 of the Mysore Small Cause Courts Regulation 1911.

I am to add that in the absence of statutory authority in that behalf the Judges of the Chief Court do not see their way to enact a penalty rule on the lines of Section 332 of the Code of Criminal Procedure.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

A.V.

133

Rules framed under section 8 of the
Mysore Small Cause Courts Regulation 1911.

-------O-------

1. The party requiring the suit to be tried by a Composite @ Court shall, in the case of a plaintiff within one week after the institution of the suit and in the case of a defendant within fifteen days after the service of the summons upon him, leave with the chief ministerial officer of the Court a notice to the effect that he wishes to have the suit tried by a Composite @ Court. Such notice shall be communicated to the opposite party in such manner as the Court thinks fit.

2. Every party requiring a jury to be summoned shall, at the time of giving the aforesaid notice, and before he shall be entitled to have such jury summoned, deposit in Court the sum of fifteen rupees for payment to the jury and such sum or so much thereof as the Judge directs shall be paid to the jurors as and by way of remuneration for the services rendered by them shall be considered as costs in the suit unless the Court otherwise directs.

3. The jurors shall be selected from the list of jurors and assessors prepared under section 321 of the Code of Criminal Procedure. Fifteen days at least before the date fixed for the trial of the suit the Judge shall cause not less than six persons named in the said list to be summoned to attend the court at a time and place to be mentioned in the summons. Provided always that no person shall be summoned or compelled to serve on the @ jury more than twice within one year or who shall have been summoned and shall have attended as a juror or assessor at any criminal court within six months next before the delivery of such summons.

4

4. The jurors shall be chosen by lot from the persons summoned to act as such. As each juror is chosen his name shall be called aloud and upon his appearance either party to the suit may take objection to his acting as a juror.

5(1) Every objection taken to a juror shall be decided by the court and such decision shall be recorded and be final.

(2) Where the objection is allowed the place of such juror shall be supplied by any other juror attending in obedience to a summons, or if there is no such other juror present then by any other person present in the court whose name is on the list of jurors or whom the court considers a proper person to serve on the jury :

Provided that no objection to such juror or other person is taken and allowed.

Registrar.

A.V.

D.O.

Dear Sir J 3487 9/8/57

Ends

With reference to the draft rules under Sec 8 of the Small Cause Courts Regn forwarded by you under letter no. I am desired to enclose herein a copy of the rules as proposed to be affd by Govt and to request that the opinion of the Ch Ct may be obtained and communicated at an early date

The few alterations which the Govt have made in the draft rules

as
sent up, by the Chief-
intended to save Expense
and delay to the parties
Simplify the procedure
and save Expense
and delay
yours Sincerely.

V.A. Rajaratna Mudr Esq.
Registrar, Chief
Court of Mysore.

b

G.R.S. 26]

Cls File No. 201-11

Serial No. 3

*Diary No. of letter replied to*_____

D.O. No. J 3437.

General and Revenue Secretariat

( ).

, *the* 19 .

To

Date of issue 18-5-1912.

Signed by_____

Dear Sir,

With reference to the draft rules under Section 8 of the Small Cause Courts Regulation forwarded by you under letter No. 3261/242 dt 20.2.1912. I am desired to enclose herein, a copy of the rules as proposed to be approved by Govt and to request that the opinion of the Chief

over.

SUBJECT.

Court may be obtained and Communicated at an early date.

The few alterations which the Govt propose to make in the draft rules as sent up by the Chief Court are intended to simplify the procedure and save expense and delay.

Yours Sincerely,

(Intd) St.

V. R. Rajaratna Mudr Esq
Regr. Chief Court

List of enclosures,

Copied by

Examined by

GPB—20,000—23-9-10

Rules. 8

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

1. On the day fixed for hearing, after the pleas of the defendant have been recorded, either party may apply for the hearing of the suit by a composite court.

2. Such an application may also be made at any stage of the suit before judgment, provided that if any adjournment is thereby rendered necessary, the party making the application shall bear all the additional costs thereby incurred.

3. If a case has been adjourned for any cause, either party may, not less than ten days before the date of hearing, leave with the chief ministerial officer of the court a notice that he wishes ~~that~~ the suit to be tried by a composite court. Such notice shall be communicated to the opposite party in such manner as the court thinks

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

fil.

4. Every party requiring a jury to be summoned shall, at the time of giving the aforesaid notice and before he shall be entitled to have such jury summoned, deposit in Court a sum of fifteen rupees for payment to the jury and such sum or so much thereof as the Judge directs shall be paid to the jurors as remuneration for the services rendered by them and shall be considered as costs in the suit unless the Court otherwise directs.

5. No person shall be a juror who is a near relation of either party to the suit or who has been convicted of any offence involving moral turpitude or is examined Court or who has any interest in the subject-matter of the suit or whom the Court considers not to be of sufficiently responsible

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

persons in life

6 among the persons present in

court six persons shall be selected

by the Judge, who and, out of them,

each party shall nominate one

juror and the court, a third juror;

and these, together with the judge,

shall form a composite court.

7 If it is not practicable to get a

sufficient number of persons in the

manner aforesaid the case may be

adjourned to a future day for which

not less than six persons shall be sum-

moned from the list of jurors and

assessors prepared under section 32

of the Code of Criminal Procedure,

fifteen days at least before the

date fixed for the trial of the suit,

the Judge shall cause not less than

six persons named in the said list to be

summoned to attend the court at a

time and place to be mentioned in

the summons.

Provided always that no person

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

shall be summoned or compelled
to serve as the jury more than
three within one year or shall be has
been summoned and has attended
as a juror or assessor at any
criminal court within six
months previous next before the
delivery of such summons
8. Each party and the secretary
respectively a juror or one each
from the persons thus summoned,
provided that the person to be no-
minated as a juror is not disquali-
fied under rule 5.
9(1) Every objection taken to a
juror shall be decided by the
court and such decision shall be
final recorded and be final.
(2) Where the objection is allowed,
the place of such juror shall be
supplied by any other juror attend-
ing in obedience to a summons or,
if there is no such other juror present,
then by any other person present in

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

the Court whose name is on the list of
jurors or when the Court considers a
proper person to serve on the jury.
Provided that no objection to
such juror or other person is taken and
allowed.

GPB—10,000—22-2-11

No. 4428/341

13

Chief Court of Mysore,
Bangalore, dated 20th June 1912.

21st

From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to the Govt: of Mysore,
General and Revenue Departments.

S i r,

With reference to your D.O. No. J. 3437/Cts. 201-11 - dated the 18th Ultimo in re draft rules under Section 8 of the Small Cause Court Regulation I am directed to say that the Judges of the Chief Court do not see their way to accept responsibility for the rules as now drafted. The proposal that each party should be allowed to select his own juryman is opposed to the spirit of the Regulation. All jurors should be chosen by lot as is done in Criminal cases.

The suggestion that an application for a jury may be made by either party at any time before judgment does not commend itself as reasonable.

I have the honour to be,
Sir,
Your most obedient servant,

REGISTRAR.

N. G.

187.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

2017

Revised rules

1. On the day fixed for hearing, after the pleas of the defendant have been recorded, either party may apply for the hearing of the suit by a composite court.

2. Among the persons present in court six persons shall be selected by the judge and out of them three names shall be selected by lot, and these together with the judge shall form the Composite court.

3. No person shall be a juror who is a near relation of either party

GPB—10,000—22-2-11

to the suit, or who has been convicted of any offence involving moral turpitude in a criminal court or who has any interest in the subject-matter of the suit, or whom the court considers not to be of a sufficiently respectable position in life.

4. If it is not practicable to get a sufficient number of persons in the manner aforesaid, the case may be adjourned to a future day for which not less than six persons shall be summoned from the list of the Jurors and assessors prepared under Sec. 321 of the Code of Criminal

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Procedure. Fifteen days at least before the date fixed for the trial of the suit the Judge shall cause not less than six persons named in the list to be summoned to attend the court at a time and place to be mentioned in the summons. Provided always that no person shall be summoned or compelled to serve on the jury more than twice within one year, or if he has been summoned and has attended as a juror or assessor at any criminal court within six months next before the delivery of such summons.

GPB—10,000—22-2-11

5. The jurors shall be chosen by lot from the persons summoned to act as such. As each juror is chosen his name shall be called aloud and upon his appearance either party to the suit may take objection to his acting as a juror.

6. (1) Every objection taken to a juror shall be decided by the Court and such decision shall be recorded and be final.

(2). Where the objection is allowed the place of such juror shall be supplied by any other juror attending in obedience to a summons or if there is no such other

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

juror present, then by any other person present in the court whose name is on the list of jurors or whom the Court considers a proper person to serve on the jury:

Provided that no objection to such juror or other person is taken and allowed.

7. Where it is necessary to summon a jury, the party at whose instance a composite court is allowed shall deposit in Court the sum of fifteen rupees for payment to the jury and such sum or so much thereof as the Judge directs shall be paid to the jurors as remuneration for the

GPB—10,000—22-2-11

services rendered by them and shall be considered as costs in the suit unless the Court otherwise directs.

28/6/12

On the day fixed for hearing, after t pleas of the defendant have been recorded either party may apply for the hearing of the suit by a composite court.

2. Among the persons present in court six persons shall be selected by the Judge and out of them three names shall be selected by lot; and these together with the Judge shall form the composite court.

3. No person shall be a juror who is a near relation of either party to the suit or who has been convicted of any offence involving moral turpitude in a criminal court or who has any interest in the subje matter of the suit, or whom the court considers not to be of a sufficiently respectable position in life.

4. If it is not practicable to get a sufficient number of persons in the manne aforesaid the case may be adjourned to a future-day for which not less than six persons shall be summoned from the list

of the Jurors and Assessors prepared under section 321 of the Code of Criminal Procedure. Fifteen days at least before the date fixed for the trial of the suit the Judge shall cause not less than six persons named in the list to be summoned to attend the court at a time and place to be mentioned in the summons. Provided always that no person shall be summoned or compelled to serve on the jury more than twice within one year, or if he has been summoned and has attended as a Juror or Assessor at any criminal court within six months next before the delivery of such summoned summons.

5. The Jurors shall be chosen by lot from the persons summoned to act as such. As each Juror is chosen his name shall be called aloud and upon his appearance either party to the suit may take objection to his acting as a Juror.

6. (1) Every objection taken to a Juror shall be decided by the Court and such decision shall be recorded and be final.

(2) Where the objection is allowed

(c) [illegible]

ejetion shall be accepted and be firm."

supply be posted at the same time."

9. (1) Each application shall be a firm

contract."

Each to the said firm objection to its

accept every and each bid or tender which

does not to choose the bid one may. It

the lowest or lowest to pay on any.

3. The Board shall in choose it not less

than [illegible] of any application which

not has withdrawn or a year as [illegible]

[illegible] one hour, or 12 to pay from shall

pay to state on the [illegible] this true

to be taken shall be entered as satis-

factory in the contract. Provided [illegible]

ought the terms to a time and [illegible] to

make shall have the right to be satis-

fied [illegible] the said [illegible] of the said

case. Within [illegible] to [illegible] before the

[illegible] may be [illegible]

..

22

the place of such Juror shall be supplied by any other Juror attending in obedience to a summons or if there is no such other Juror present, then by any other person present in the Court whose name is on the list of Jurors or whom the Court considers a proper person to serve on the Jury.

Provided that no objection to such ~~Ju~~ Juror or other person is taken and allowed.

7. Where it is necessary to summon a Jury the party at whose instance a composite Court is allowed, shall deposit in Court the sum of fifteen rupees for payment to the Jury and such sum or so much thereof as the Judge directs shall be paid to the Jurors as remuneration for the services rendered by them and shall be considered as costs in the suit unless the Court otherwise directs.